

small-town, common sense, Midwestern values.

If any trait best epitomizes JIM EXON, it is his overriding desire to make the Federal Government live within its means. Democrats are often unfairly stereotyped as politicians who never met a spending program they didn't like. While I find that characterization unfair, I can guarantee one thing, no one will ever say it about JIM EXON.

JIM EXON is certainly no Johnny-come-lately to the issue of deficit reduction. His adherence to the notion of fiscal responsibility has characterized his career, from his days as a small businessman to the Nebraska Governor's Mansion and the U.S. Senate.

And, while I may have disagreed with his long-standing support for the balanced budget amendment, I've always deeply respected and appreciated his tireless efforts to trim the Federal deficit.

Because, Senator EXON always rallies behind ideas and beliefs and not partisan politics.

He has always been a champion of a strong military force. When not fighting to keep our military preparedness at the highest level, he worked to lessen American military dependence on foreign suppliers and stop foreign takeovers that threaten national security.

Yet, at the same time he advocated a strong military, he was working tirelessly to end U.S. nuclear testing. JIM EXON can take particular pride that due in part to his efforts, the United States signed on to a Comprehensive Nuclear Test Ban Treaty recently at the United Nations in New York. His unyielding pugnacity in bringing this issue to the fore deserves the appreciation of every American.

But, for all his legislative accomplishments his most enduring legacy may be his willingness to stretch out his hand in the name of compromise and bipartisanship. As the National Journal noted, JIM EXON's instincts run toward conciliation.

I fear that his intense dislike for conflict, partisan politics, and as he put it, the ever-increasing vicious polarization of the electorate, has hastened his departure from the Senate.

If anything, this is a body that must embody the spirit of men like JIM EXON and not turn them away from the legislative process.

But, Senator EXON has made the decision to return to his beloved Nebraska with his wife of 53 years, Patricia, and I join all my colleagues in wishing him the best of luck in his retirement.

Most of all, and I'm sure this is the way JIM would want it, I wish best of his luck to his beloved St. Louis Cardinals, champions of the National League Central division. I know he looks forward to the end of the 104th Congress so he can get out to the ballpark and cheer on the Cards.

Mr. President, for almost two decades JIM EXON's dedication, sincerity,

and commitment to public service have graced these Halls. I join all my colleagues in saying he will be sorely missed.

#### OCEAN SHIPPING REFORM

Mr. PRESSLER. Mr. President, as we bring the 104th Congress to a close, I want to provide an update on our progress to enact ocean shipping reform legislation.

Last October, I introduced S. 1356, a companion bill to H.R. 2149. I did so to begin Senate discussion of this important reform proposal. In November, I chaired a Committee on Commerce, Science, and Transportation hearing on the bill. The hearing revealed numerous issues affecting all segments of the liner ocean shipping industry that required further consideration. On July 18, 1996, I placed a proposed amendment to S. 1356 in the RECORD for public review and comment. After several additional meetings with affected segments of the ocean shipping industry, we have made further progress in crafting acceptable legislation.

Today I will ask to have printed in the RECORD a revised version of that amendment to S. 1356. While there are a few issues requiring additional work, we have made substantial progress toward producing a bill that will gain broad support within the affected industries and the Congress.

I am pleased to be joined by Senators GORTON, LOTT, HUTCHISON, SNOWE, INOUE, EXON, and BREAUX as cosponsors in this amendment. This bipartisan approach demonstrates just how serious we are about achieving meaningful reform.

We have run out of time in the 104th Congress to complete this effort. However, I intend to introduce ocean shipping reform legislation early in the 105th Congress. With the support of my fellow Commerce Committee members and other Senators, we can pass ocean shipping reform legislation next year.

Mr. President, 95 percent of U.S. foreign commerce is transported via ocean shipping. Approximately half of this amount is shipped in bulk form, oil, grain, chemicals, and so forth, on an unregulated vessel charter basis. The remainder is shipped by container on liner vessels, regularly scheduled service under the Shipping Act of 1984, as regulated by the Federal Maritime Commission [FMC]. As the international liner shipping trade has evolved since 1984, many industry segments have requested changes in the Shipping Act of 1984 to keep pace with this evolution.

My amendment, the International Ocean Shipping Act of 1996, would improve the Shipping Act of 1984 in several key areas. First, it would eliminate the filing of common carrier tariffs with the Federal Government. Instead of requiring Government approval, tariffs would become effective upon publication through private systems. My amendment also would in-

crease tariff rate flexibility by easing restrictions on tariff rate changes and independent action by conference carriers.

Second, it would allow for greater flexibility in service contracting by shippers and ocean common carriers. The amendment would allow individual ocean common carriers and shippers to negotiate confidential service contracts.

Finally, responsibility for enforcing U.S. ocean shipping laws would be shifted to the Surface Transportation Board, which would be renamed the Intermodal Transportation Board. The Federal Maritime Commission would be terminated at the end of fiscal year 1998. A single independent agency would then administer domestic surface, rail, and water transportation and international ocean transportation regulations. The Government would catch up to the carriers and shippers, who are already thinking intermodally.

Mr. President, I ask unanimous consent that my proposed amendment to S. 1356 be printed in the RECORD at the end of my statement.

THE PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

#### AMENDMENT NO. —

(Purpose: To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes)

Strike out all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "International Ocean Shipping Act of 1996".

#### SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect on October 1, 1997.

#### TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

##### SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking "and" after the semicolon in paragraph (2);

(2) striking "needs." in paragraph (3) and inserting "needs; and"; and

(3) adding at the end thereof the following:

"(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.".

##### SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking paragraph (5) and redesignating paragraph (4) as paragraph (5);

(2) inserting after paragraph (3) the following:

"(4) 'Board' means the Intermodal Transportation Board.";

(3) striking "the government under whose registry the vessels of the carrier operate;" in paragraph (8) and inserting "a government";

(4) striking paragraph (9) and inserting the following:

"(9) 'deferred rebate' means a return by a common carrier of any portion of freight

money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.”;

(5) striking “in an unfinished or semi-finished state that require special handling moving in lot sizes too large for a container” in paragraph (11);

(6) striking “paper board in rolls, and paper in rolls.” in paragraph (11) and inserting “paper and paper board in rolls or in pallet or skid-sized sheets.”;

(7) striking “conference, other than a service contractor contract based upon time volume rates,” in paragraph (14), and inserting “conference”;

(8) by striking “conference.” in paragraph (14) and inserting “conference and the contract provides for a deferred rebate arrangement.”;

(9) striking paragraph (17) and redesignating paragraphs (18) through (27) as paragraphs (17) through (26), respectively;

(10) striking paragraph (18), as redesignated, and inserting the following:

“(18) ‘ocean freight forwarder’ means a person that—

“(A)(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

“(ii) processes the documentation or performs related activities incident to those shipments; or

“(B) acts as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.”;

(11) striking paragraph (20), as redesignated and inserting the following:

“(20) ‘service contract’ means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of non-performance on the part of any party.”;

(12) striking paragraph (22), as redesignated, and inserting the following:

“(22) ‘shipper’ means:

“(A) a cargo owner;

“(B) the person for whose account the ocean transportation is provided;

“(C) the person to whom delivery is to be made;

“(D) a shippers’ association; or

“(E) an ocean freight forwarder, as defined in paragraph (18)(B) of this section, that accepts responsibility for payment of the ocean freight.”;

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment, except that the amendments made by paragraphs (1) and (2) take effect on October 1, 1998.

#### SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking “operators or non-vessel operating common carriers;” in paragraph (5) and inserting “operators;”;

(2) striking “and” in paragraph (6) and inserting “or”; and

(3) striking paragraph (7) and inserting the following:

“(7) discuss and agree upon any matter related to service contracts.”.

#### SEC. 104. AGREEMENTS.

Section 5(b)(8) of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended to read as follows:

“(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days’ notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item. A conference agreement may not require a member of the agreement to disclose the existence of an existing individual service contract under section 8(c)(3) of this Act or a negotiation on an individual service contract under section 8(c)(3) of this Act. A conference agreement may not prohibit members of the agreement from negotiating and entering into individual service contracts under section 8(c)(3) of this Act.”.

#### SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

(a) IN GENERAL.—Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting “or publication” in paragraph (2) of subsection (a) after “filing”;;

(2) inserting “Federal Maritime” before “Commission” in paragraph (6) of subsection (a);

(3) striking “or” at the end of subsection (b)(2);

(4) striking “States.” at the end of subsection (b)(5) and inserting “States; or”; and

(5) adding at the end of subsection (b) the following: “(4) to any loyalty contract.”.

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment except the amendment made by paragraph (2) of subsection (a) takes effect on October 1, 1998.

#### SEC. 106. TARIFFS.

Section 8 of the Shipping Act of 1984 (46 U.S.C. App. 1707) is amended by—

(1) inserting “new assembled motor vehicles,” after “scrap,” in subsection (a)(1);

(2) striking “file with the Commission, and” in subsection (a)(1);

(3) striking “inspection,” in subsection (a)(1) and inserting “inspection in an automated tariff system approved by the Board,”;

(4) inserting before “However,” in subsection (a)(1) the following: “An ocean freight forwarder described in section 3(18)(B) of this Act that is not, or whose assets are not, directly or indirectly, owned or controlled by an ocean common carrier is exempt from the requirements of this subsection.”;

(5) striking “tariff filings” in subsection (a)(1) and inserting “tariffs”;;

(6) striking “loyalty contract,” in subsection (a)(1)(E);

(7) striking paragraph (2) of subsection (a) and inserting the following:

“(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote terminals, and a reasonable charge may be assessed for such access. No charge may be assessed for access by a Federal agency.”;

(8) striking subsection (c) and inserting the following:

“(c) SERVICE CONTRACTS.—

“(1) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

“(2) AGREEMENT SERVICE CONTRACTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an agreement shall be filed with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—

“(A) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

“(B) the commodity or commodities involved;

“(C) the minimum volume;

“(D) the line-haul rate;

“(E) the duration;

“(F) service commitments; and

“(G) the liquidated damages for non-performance, if any.

“(3) INDIVIDUAL SERVICE CONTRACTS.—Notwithstanding subsection (a) of this section and paragraph (2) of this subsection, service contracts entered into under this subsection between one or more shippers and an individual ocean common carrier may be made on a confidential basis. Service contracts entered into under this subsection shall be retained by the parties of the contract for 3 years subsequent to the expiration of the contract.”;

(9) striking “30 days after filing with the Commission” in the first sentence of subsection (d) and inserting “21 calendar days after publication”;

(10) striking “30” in the second sentence of subsection (d) and inserting “21”; and

(11) striking “and filing with the Commission” in the last sentence of subsection (d);

(12) striking subsection (e) and inserting the following:

“(e) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable as an implied contract, subject to section 10 of this Act, without proof of actual knowledge of its provisions.”; and

(13) striking subsection (f) and inserting the following:

“(f) REGULATIONS.—The Commission shall by regulation prescribe the requirements for automated tariff systems established under this section and shall approve any automated tariff system that complies with those requirements. The Commission shall disapprove or, after periodic review, cancel any automated tariff system that fails to meet the requirements established under this section. The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.”.

#### SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

**SEC. 108. CONTROLLED CARRIERS.**

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking “filed with the Commission” in the first sentence of subsection (a) and inserting a comma and “or charge or assess rates”;

(2) striking “or maintain” in the first sentence of subsection (a) and inserting “maintain, or enforce”;

(3) striking “disapprove” in the third sentence of subsection (a) and inserting “prohibit the publication or use of”; and

(4) striking “filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission” in the last sentence of subsection (a) and inserting “that have been suspended or prohibited by the Board”;

(5) striking “may take into account appropriate factors including, but not limited to, whether—” in subsection (b) and inserting “shall take into account whether”;

(6) striking “(1)” in paragraph (1) of subsection (b) and resetting the text of paragraph (1) as a full measure continuation of the matter preceding it;

(7) striking “filed” each place it appears in subsection (b) and inserting “published or assessed”;

(8) striking “similar trade;” in subsection (b) and inserting “similar trade. The Board may also take into account other appropriate factors, including, but not limited to, whether—”;

(9) redesignating paragraphs (2), (3), and (4) of subsection (b) as paragraphs (1), (2), and (3), respectively; and

(10) striking “filing with the Commission” in subsection (c) and inserting “publication”;

(11) striking “DISAPPROVAL.—” in subsection (d) and inserting “PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Board under this section, the Board shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.”;

(12) striking “filed” in subsection (d) and inserting “published or assessed”;

(13) striking “may” in the second sentence of subsection (d), as amended by paragraph (11) of this section, and inserting “shall”;

(14) striking “disapproved” in such sentence and inserting “prohibited”;

(15) striking “60” in subsection (d) and inserting “30”;

(16) inserting “controlled” after “affected” in subsection (d);

(17) striking “file” in subsection (d) and inserting “publish”;

(18) striking “disapproval” in subsection (e) and inserting “prohibition”;

(19) inserting “or” after the semicolon in subsection (f)(1);

(20) striking paragraphs (2), (3), and (4) of subsection (f); and

(21) redesignating paragraph (5) of subsection (f) as paragraph (2).

**SEC. 109. PROHIBITED ACTS.**

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

“(2) provide service in the liner trade that—

“(A) is not in accordance with the rates contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

“(B) is under a tariff or service contract which has been suspended or prohibited by

the Board under section 9 or 11a of this Act.”;

(4) redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively;

(5) striking paragraph (9) and redesignating paragraphs (10) through (16) as paragraphs (7) through (13), respectively;

(6) in paragraph (7), as redesignated, inserting “except for service contracts,” before “demand.”;

(7) in paragraph (9), as redesignated —

(A) inserting “port, class or type of shipper, ocean freight forwarder,” after “locality.”; and

(B) inserting “except for service contracts,” after “deal or.”;

(8) striking “a non-vessel-operating common carrier” each place it appears in paragraph (11) and paragraph (12), as redesignated, and inserting “an ocean freight forwarder”;

(9) striking “sections 8 and 23” in paragraph (11) and paragraph (12), as redesignated, and inserting “section 19”;

(10) striking “a tariff and” in paragraphs (11) and (12), as redesignated;

(11) striking “paragraph 16” in the matter appearing after paragraph (13), as redesignated, and inserting “paragraph (13)”;

(12) inserting “the Commission,” after “United States,” in such matter.

(b) Section 10(c)(5) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)(5)) is amended by inserting “as defined by section 3(18)(A) of this Act,” before “or limit”.

(c) Section 10(d)(3) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)(3)) is amended by striking “subsection (b)(11), (12), and (16) of this section apply to” and inserting “subsection (b)(8), (9), and (13) of this section apply to ocean freight forwarders and”.

**SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.**

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking “10(b)(5) or (7)” and inserting “10(b)(3)”;

(2) striking “10(b)(6)(A) or (B)” and inserting “10(b)(4).”.

**SEC. 111. DEFINITIONS.**

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking “non-vessel-operating common carrier,” in subsection (a)(1) and inserting “ocean freight forwarder.”;

(2) striking “non-vessel-operating common carrier operations,” in subsection (a)(4);

(3) striking “filed with the Commission,” in subsection (e)(1)(B) and inserting “and service contracts.”;

(4) inserting “and service contracts” after “tariffs” the second place it appears in subsection (e)(1)(B); and

(5) striking “13(b)(5) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(5))” in subsection (h) and inserting “13(b)(3) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(3))”.

**SEC. 112. SUBPOENAS AND DISCOVERY.**

Section 12(a)(2) of the Shipping Act of 1984 (46 U.S.C. App. 1711 (a)(2)) is amended by striking “evidence.” and inserting “evidence, including individual service contracts described in section 8(c)(3) of this Act.”.

**SEC. 113. PENALTIES.**

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: “The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels of the common carrier and any such vessel may be libeled therefor in the district court of the United States for the district in which it may be found.”.

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking paragraphs (1) through (3) and redesignating paragraphs (4) through (6) as paragraphs (2) through (4);

(2) inserting before paragraph (2), as redesignated, the following:

“(1) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)”;

(3) striking “penalties authorized under paragraphs (1), (2), and (3) of this subsection.” in paragraph (3), as redesignated, and inserting “penalty authorized under paragraph (1) of this subsection.”.

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by striking “section 10(a)(1), (b)(1), or (b)(4)” and inserting “section 10(a)(1) or 10(b)(1).”.

**SEC. 114. REPORTS AND CERTIFICATES.**

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking “and certificates” in the section heading;

(2) striking “(a) REPORTS.—” in the subsection heading; and

(3) striking subsection (b).

**SEC. 115. EXEMPTIONS.**

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking “substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be detrimental to commerce.” and inserting “result in substantial reduction in competition or be detrimental to commerce.”.

**SEC. 116. AGENCY REPORTS AND ADVISORY COMMISSION.**

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

**SEC. 117. OCEAN FREIGHT FORWARDERS.**

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking subsection (a) and inserting the following:

“(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder’s license to any person that the Commission determines to be qualified by experience and character to act as an ocean freight forwarder.”;

(2) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) inserting after subsection (a) the following:

“(b) FINANCIAL RESPONSIBILITY.—

“(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

“(2) A bond, insurance, or other surety obtained pursuant to this section—

“(A) shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under section 3(18) of this Act, or any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act; and

“(B) may be available to pay any claim against an ocean freight forwarder arising

from its transportation-related activities under section 3(18) of this Act that is deemed valid by the surety company after providing the ocean freight forwarder the opportunity to address the validity of the claim.

(3) An ocean freight forwarder not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.”;

(4) striking “a bond in accordance with subsection (a)(2)” in subsection (c), as redesignated, and inserting “a bond, proof of insurance, or other surety in accordance with subsection (b)(1)”;

(5) striking “forwarder” in paragraph (1) of subsection (e) and inserting “forwarder, as described in section 3(18),”;

(6) striking “license” in paragraph (1) of subsection (e) and inserting “license, if required by subsection (a),”;

(7) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(8) adding at the end of subsection (e), as redesignated, the following:

“(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

“(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean freight forwarder, as so defined; or

“(B) agree to limit the payment of compensation to an ocean freight forwarder, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the forwarding services are provided.”.

#### **SEC. 118. CONTRACTS, AGREEMENTS, AND LICENSES PRIOR TO SHIPPING LEGISLATION.**

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

“(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984 shall continue in force and effect as if issued or effective under this Act, as amended by the International Ocean Shipping Act of 1996, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the International Ocean Shipping Act of 1996.”;

(2) inserting the following at the end of subsection (e):

“(3) The International Ocean Shipping Act of 1996 shall not affect any suit—

“(A) filed before the effective date of that Act, or

“(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

“(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the International Ocean Shipping Act of 1996.”.

#### **SEC. 119. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.**

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

#### **SEC. 120. REPLACEMENT OF FEDERAL MARITIME COMMISSION WITH INTERMODAL TRANSPORTATION BOARD.**

Effective October 1, 1998, the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) is amended by—

(1) striking “Federal Maritime Commission” each place it appears, except in section 20, and inserting “Intermodal Transportation Board”;

(2) striking “Commission” each place it appears (including chapter and section headings), except in sections 7(a)(6) and 20, and inserting “Board”;

(3) striking “Commission’s” each place it appears and inserting “Board’s”.

#### **TITLE II—TRANSFER OF FUNCTIONS OF THE FEDERAL MARITIME COMMISSION TO THE INTERMODAL TRANSPORTATION BOARD**

##### **SEC. 201. TRANSFER TO THE INTERMODAL TRANSPORTATION BOARD.**

(a) CHANGE OF NAME OF SURFACE TRANSPORTATION BOARD TO INTERMODAL TRANSPORTATION BOARD.—The ICC Termination Act of 1995 (Pub. L. 104-88) is amended by striking “Surface Transportation Board” each place it appears and inserting “Intermodal Transportation Board”.

(b) FUNCTIONS OF THE FEDERAL MARITIME COMMISSION.—All functions, powers and duties vested in the Federal Maritime Commission shall be administered by the Intermodal Transportation Board.

(c) REGULATIONS.—No later than July 1, 1997, the Federal Maritime Commission, in consultation with the Surface Transportation Board, shall prescribe final regulations to implement the changes made by this Act.

(d) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Federal Maritime Commission, \$19,000,000 for fiscal year 1997.

(e) COMMISSIONERS OF THE FEDERAL MARITIME COMMISSION.—Subject to the political party restrictions of section 701(b) of title 49, United States Code, the 2 Commissioners of the Federal Maritime Commission whose terms have the latest expiration dates shall become members of the Intermodal Transportation Board. Of the 2 members of the Intermodal Transportation Board first appointed under this subsection, the one with the first expiring term (as a member of the Federal Maritime Commission) shall serve for a term ending December 31, 2000, and the other shall serve for a term ending December 31, 2002. Effective October 1, 1998, the right of any Federal Maritime Commission commissioner other than those designated under this subsection to remain in office is terminated.

(f) MEMBERSHIP OF THE INTERMODAL TRANSPORTATION BOARD.—

(1) NUMBER OF MEMBERS.—Section 701(b)(1) of title 49, United States Code, is amended by—

(A) striking “3 members” and inserting “5 members”;

(B) striking “2 members” and inserting “3 members”.

(2) QUALIFICATIONS.—Section 701(b)(2) of title 49, United States Code, is amended by inserting after “sector,” the following: “Effective October 1, 1998, at least 2 members shall be individuals with—

“(A) professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation; or

“(B) professional or business experience in the maritime transportation private sector, including marine terminal or public port operation.”.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, except as otherwise provided.

#### **TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS**

##### **SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.**

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking “Federal Maritime Commission” each place it appears and inserting “Intermodal Transportation Board”;

(2) inserting “ocean freight” after “solicitations,” in subsection (1)(b);

(3) striking “non-vessel-operating common carrier operations,” in subsection (1)(b);

(4) striking “methods or practices” and inserting “methods, pricing practices, or other practices” in subsection (1)(b);

(5) striking “tariffs filed with the Commission” in subsection (9)(b) and inserting “tariffs and service contracts”;

(6) striking “Commission” each place it appears (including the heading) and inserting “Board”.

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment of this Act, except that the amendments made by paragraphs (1) and (7) of that subsection take effect on October 1, 1998.

##### **SEC. 302. TECHNICAL CORRECTIONS.**

(a) PUBLIC LAW 89-777.—

(1) The Act of November 6, 1966, (Pub. L. 89-777; 80 Stat. 1356; 46 U.S.C. App. 817 et seq.) is amended by—

(A) striking “Shipping Act, 1916” in section 2(d) and inserting “Shipping Act of 1984”;

(B) striking “Shipping Act, 1916” in section 3(d) and inserting “Shipping Act of 1984”;

(C) striking “Federal Maritime Commission” each place it appears and inserting “Intermodal Transportation Board”;

(D) striking “Commission” each place it appears and inserting “Board”.

(2) The amendments made by subparagraphs (A) and (B) of paragraph (1) take effect on September 30, 1996. The amendments made by subparagraphs (C) and (D) of paragraph (1) take effect on October 1, 1998.

(b) TITLE 28, UNITED STATES CODE, AND CROSS REFERENCE.—

(1) Section 2341 of title 28, United States Code, is amended by—

(A) striking “Commission, the Federal Maritime Commission,” in paragraph (3)(A); and

(B) striking “Surface” in paragraph (3)(E) and inserting “Intermodal”.

(2) Section 2342 of such title is amended by—

(A) striking paragraph (3) and inserting the following:

“(3) all rules, regulations, or final orders of the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, or 841a) or pursuant to part B or C of subtitle IV of title 49 (49 U.S.C. 13101 et seq. or 15101 et seq.);”;

(B) striking paragraph (5) and inserting the following:

“(5) all rules, regulations, or final orders of the Intermodal Transportation Board—

“(A) made reviewable by section 2321 of this title; or

“(B) pursuant to—

“(i) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

“(ii) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

“(iii) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817(d) or 817e(d));”.

(3) Section 10002(i) of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 1710a(i)) is amended by striking “2342(3)(B)” and inserting “2342(5)(B)”.

(c) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.